

Remarks

Applicant hereby responds to the Non-Final Office Action mailed October 9, 2002 regarding the above-referenced patent application, of which this Reply is within the shortened three month statutory period for reply. The patent application was submitted with claims 1-10 and the Examiner rejects claims 1-10.

The Examiner rejects claims 1-10 under 35 U.S.C. 103(a) as being unpatentable over Musmanno (4,346,442) in view of Musanno (4,774,663) and Card News. In general, the Examiner asserts that Musmanno '442 discloses a credit card system used in conjunction with a brokerage account and the operations of each system are inherent. Applicant respectfully traverses this rejection.

The Musmanno references disclose a specific system for determining the amount of free credit cash balance available for use by a subscriber. The Musmanno brokerage system may be integrated with the charge card system, but the integration is merely to analyze charge card transactions, along with checks, securities and deposit transactions, to determine an updated credit limit for each subscriber (e.g., '442, col 1, lines 12-42). The Musmanno references also disclose that "charges created by the transaction card and checks drawn against the bank are accumulated by the bank and transmitted to the brokerage house." ('442, col. 2, lines 31-35). As such, the Musmanno system requires data related to the specific charge card and check transactions in order to determine an allowed credit limit. The Musmanno system then monitors and updates a subscriber's credit limit to more efficiently take advantage of a subscriber's current total amount of credit available in order to purchase securities and other investments in a margin brokerage account. As disclosed in Musmanno '442 at col. 1, lines 1-2, "At the kernel of the overall system is a margin brokerage account" In other words, the Musmanno system utilizes the subscriber's excess credit limit to acquire investments, but it does not monitor or utilize the subscriber's combined remittances (including charge card payment portion and investment portion) to acquire investments.

In contrast, the presently claimed invention has a completely different purpose in that it receives combined remittances and divides the remittances pursuant to pre-defined hierarchy rules. Additionally, the brokerage system in the presently claimed invention does not need to receive the transaction information from the transaction

system because the presently claimed invention does not need to monitor the subscriber charge card and check use to establish a credit limit to acquire investments; rather, the brokerage system simply receives the appropriate amount of divided funds from the subscriber remittance.

Moreover, when funds are needed to pay for a subscriber transaction or charge, the Musmanno references disclose a system wherein subscriber selection and hierarchy rules are used for obtaining credit balances and margin loans ('442, col 2, lines 59-69) to satisfy the subscriber obligations from the subscriber's use of the transaction card and checks. The presently claimed invention does not include any operations related to changes in the brokerage account in order to pay a subscriber obligations. In contrast, the presently claimed invention utilizes the hierarchy rules for distributing a portion of combined remittances to a brokerage system to purchase securities with the remitted funds. The Musmanno references do not disclose the remittance by the subscriber of a combined payment which is based upon the total amount due on a charge card account and the total amount the subscriber wishes to invest in a brokerage account. As such, the cited prior art does not teach or suggest, explicitly or implicitly, accepting combined remittances in a charge card system, then dividing the remittances among a charge card invoice and investment products according to hierarchy rules.

Accordingly, because the prior art only analyzes and determines credit limits, the cited prior art does not include a system for accepting combined remittances for purchasing investments. The cited prior art also does not utilize a charge card billing system to accept remittances for purchasing investments, so the cited prior art does not disclose "a remittance database configured to include information about cardholder remittances, wherein said remittances include a portion of funds to satisfy debts related to said financial events and a portion of funds for investment", as required by amended independent claim 1 or "accepting remittances, using said charge card billing system, from cardholders", as required by independent claim 6. Moreover, because the prior art only allows a subscriber to indicate how his free credit cash balance may be applied, the cited prior art does not accept instructions related to dividing remittances among charge card payments and investments, so the cited prior art does not include "a

payment hierarchy system for establishing rules for distributing remittances to said financial events", as required by independent claim 1, or "a portion of said remittances defined as funds to satisfy debts related to said financial events and investment funds to be applied to said investment products", as required by amended independent claim 6.

The Musmanno reference also does not disclose transferring of remittances from a billing system to a brokerage system. As such, the cited prior art does not include "a payment hierarchy system for establishing rules for distributing remittances to said financial events and to an investment brokerage system." as required by amended independent claim 1, or "transferring said investment funds to said investment broker system", as required by amended independent claim 6.

The Examiner also asserts that the Card News reference discloses the use of a conventional credit card with borrowed funds as a source of funds for investment. However, the presently claimed invention includes transferring a portion of remittances to an investment brokerage system, wherein remittances include cash payments by a customer. In other words, cash payments are not equivalent to using borrowed funds through a credit card account.

The presently claimed invention is not a combination of the cited prior art references because the cited prior art references, alone or in combination, do not disclose or teach "accepting remittances, using said charge card billing system, from cardholders, a portion of said remittances defined as investment funds to be applied to said investment products; transferring said investment funds to said investment broker system" or applying hierarchy rules, as required by independent claim 6. Moreover, a combination of the cited prior art references would literally destroy the functionality of the present invention because the cited prior art requires selling investments and obtaining a margin loan to satisfy a transaction or check charge. The cited prior art does not include functionality for accepting and dividing remittances among a charge card balance and various brokerage investments.

Although not commented on in the Detailed Action, the Examiner selected "box 10" in the Office Action Summary which states that Applicant's drawings are objected to by the Examiner. However, the Examiner did not provide any specific information or a Notice of Draftsperson's Patent Drawing Review to clarify the objections. Pursuant to

37 CFR 1.85(c), Applicant presumes that the Examiner will notify the applicant at the time the application is allowed with detailed objections and a timeframe for filing formal drawings. However, if any new Office procedures require otherwise, please notify Applicant so Applicant can comply with any outstanding requirements related to the drawings.

Upon entry of the foregoing amendments, Applicant believes that the application is now in condition for allowance and respectfully requests a Notice of Allowance. Moreover, this Amendment and Response does not incorporate any new matter. However, if the Examiner has any questions or concerns about this Response or the Application, please contact the undersigned attorney at the Examiner's convenience.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned **"VERSION WITH MARKINGS TO SHOW CHANGES MADE"**.

Respectfully submitted,

Dated: January 9, 2003

By: 

Howard I. Sobelman
Reg. No. 39,038

SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6228
Fax (602) 382-6070
Email: hsobelman@swlaw.com

"VERSION WITH MARKINGS TO SHOW CHANGES MADE"

Claims 1 and 6 have been amended as follows:

1. [Amended] A system for funding multiple investment products including:
 - a charge card billing system configured to capture financial event information wherein said billing system comprises:
 - a card account database configured to include cardholder accounts;
 - a billing information database configured to include information about cardholder billings;
 - a financial events database configured to include information about cardholder financial events;
 - a remittance database configured to include information about cardholder remittances, wherein said remittance includes a portion of funds to satisfy debts related to said financial events and a portion of funds for investment;
 - a payment hierarchy system for establishing rules for distributing [remitted funds] said remittance to said financial events and to an investment brokerage system;
 - and,
 - an investment broker system in communication with said billing system wherein said investment broker system comprises:
 - an investment instruction arrangement database configured to include cardholder investment instruction information;
 - an investment account database configured to include multiple investment products; and,
 - an investment payment hierarchy system for establishing rules for distributing funds to said investment products.
6. [Amended] A method for funding multiple investment products including the steps of:
 - providing a charge card billing system through which cardholders charge financial events;
 - capturing, using said billing system, financial event information;

providing an investment broker system in communication with said billing system, wherein said investment broker system includes multiple investment products through which cardholders can select investments for purchase;

billing said cardholders for said financial events and said investment products;

accepting remittances, using said charge card billing system, from cardholders, a portion of said remittances defined as funds to satisfy debts related to said financial events and investment funds to be applied to said investment products;

transferring said investment funds to said investment broker system;

applying payment hierarchy rules to said investment funds; and,

distributing said investment funds to said investment products in accordance with said payment hierarchy rules.